

REMARKS

Reconsideration of the present application in view of the above amendments and following remarks is requested respectfully.

Claims 1, 2, 6, 8, 9, 11, 12, 17 to 19, 21, 25, 26, 28, 30 and 35 to 37 are pending. Claims 1, 9, 11, 12, 17 and 19 have been amended. No claims have been added and Claims 10 and 16 have been canceled, without prejudice.

The present Office Action includes an affirmation of the restriction and election requirement set forth in the Office Action dated January 29, 2007, as well as rejections under Sections 102 which are addressed below.

Discussion of the Restriction and Election Requirement

Applicants submit respectfully that the affirmation of the restriction requirement and the withdrawal from further consideration of the subject matter of Group II under 37 CFR 1.142(b) are improper. Applicants also submit respectfully that the examination of the claims only to the extent that they read on the elected subject matter (*i.e.*, where the cytoplasmic signaling sequence is derived from human inducible co-stimulator) is improper, and that a search of all of the subject matter defined in the claims as originally presented to the Patent Office is appropriate.

Nevertheless, to facilitate prosecution of the application, applicants have amended independent Claims 1 and 19 by deleting reference to CD134. In addition, Claims 1, 9, 11, 12, 17 and 19 have been amended to recite that the cytoplasmic signalling sequence comprises amino acid residues 166 to 199 of the human inducible co-stimulator.¹

In view of the amendment to Claim 1, dependent Claims 10 and 16 have been canceled.

Applicants hereby affirm their right to file one or more continuing applications directed to any of the non-elected, canceled subject matter.

¹ This amendment is supported in the application, for example, at page 5, lines 15 to 17.

Discussion of the Art Rejections

Claims 1, 2, 6, 8, 9, 11, 12, 17 to 19, 21, 25, 26, 28, 30 and 37 have been rejected under 35 U.S.C. 102(b) as being anticipated by one or more of the following documents: Roberts et al., WO 96/23814 (“Roberts”); Finney et al., WO 02/33101 (“Finney”); and Maher et al., *Nat Biotechnol.*, 20(1):70-5, Jan. 2002 (“Maher”). It is basically asserted in the Office Action that the cited documents teach nucleic acid molecules that are encompassed in applicants’ defined nucleic acid molecules.

Applicants disagree respectfully with the art rejections and submit that the claims, as originally presented to the Patent Office, define over the cited documents. Moreover, as noted above in connection with the restriction and election requirements, the claims have been amended to recite that the cytoplasmic signalling sequence comprises amino acid residues 166 to 199 of the human inducible co-stimulator, as recited in independent Claim 1, as amended herein. None of Roberts, Finney and/or Maher disclose or suggest nucleic acid molecules that encode a chimeric receptor protein which includes an extracellular ligand-binding domain, a transmembrane domain and a cytoplasmic signalling domain, wherein the cytoplasmic signalling domain comprises a signal cytoplasmic signalling sequence comprising the particular sequence of amino acid residues 166 to 199 of the human inducible co-stimulator, as recited in independent Claim 19, as amended herein.

In view of the foregoing amendments and remarks, reconsideration and withdrawal of the rejections based on Roberts, Finney and Maher are requested respectfully.

Rejoinder of Method of Treatment Claims

Rejoinder of method of treatment Claims 35 and 36 is requested respectfully. Applicants submit respectfully that, in view of the above amendments and remarks, the present composition of matter claims, including Claim 1, are allowable. As method of treatment Claims 35 and 36 depend from and thus include all of the limitations of composition of matter Claim 1, the withdrawn method of use claims should be rejoined. *See* MPEP § 821.04(b). Accordingly, applicant respectfully requests the rejoinder of Claims 35 and 36.

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Conclusion

Applicants believe that the foregoing constitutes a complete and full response to the Office Action of record. Accordingly, an early and favorable Notice of Allowance for all of pending Claims 1, 2, 6, 8, 9, 11, 12, 17 to 19, 21, 25, 26, 28, 30 and 37 is requested respectfully.

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